

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. On June 3, 2004 the Department notified the petitioner that effective July 1, 2004 she would no longer be eligible for Medicaid based on her and her husband's combined income being in excess of the maximum for a two-person household. The petitioner was given a Medicaid spenddown amount based on this income (as was her husband), and she (as

well as her husband) was found eligible for VHAP-Pharmacy benefits.

3. The petitioner does not dispute that the Department correctly determined her and her husband's income. She also does not dispute that the Department applied the correct income maximums for a two-person household. She takes issue with the fact that in the determination of her household status she and her husband appear to pay a "penalty" for being married.

4. The Department admits that prior to June 2004 it failed to account for the fact that the petitioner was married, and that as a result it incorrectly determined the petitioner's and her husband's eligibility for Medicaid as separate single-person households.

ORDER

The Department's decision is affirmed.

REASONS

Medicaid Manual § M222.2 includes the following:

When two spouses are living together, the department considers both the individual requesting Medicaid and the individual's spouse members of the individual's SSI-related Medicaid group, a Medicaid group of two, unless one of the exceptions specified in M222.21 apply (sic). This is true whether or not the spouse is also requesting Medicaid.

The reference in the above to § M222.21 applies only when one or both spouses are receiving long-term care, a situation that does not apply to the petitioner or her husband in this case.

Although the petitioner may have a legitimate policy argument for separate household status, it is clear from the above that as of June 2004 the Department has correctly applied its regulations in determining her and her husband's eligibility. Thus, the Board is bound to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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